

APPEAL NO. 021363
FILED JULY 10, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 1, 2002. The hearing officer determined that the respondent (claimant) had good cause for failing to submit to the required medical examination (RME) on December 28, 2001, and that he is entitled to temporary income benefits from December 29, 2001, through January 16, 2002 (when the claimant attended a rescheduled RME).

The appellant (self-insured) appeals, contending that it had sent timely notice of the scheduled appointment, that a copy of the envelope provided evidence of that fact, and that the claimant had failed to meet his burden of proof. The file did not contain a response from the claimant.

DECISION

Affirmed.

The self-insured asserts it sent notice of the scheduled RME by certified mail dated December 11, 2001, and that the claimant was notified on "12-13-01." The claimant asserts he had been living at the same address for a number of years (the letter was addressed to the claimant's correct address) but that he did not receive the letter and that no one else, including his then attorney, knew about the letter. The hearing officer noted that the post office had stamped the envelope "ATTEMPTED ADDRESS NOT KNOWN" rather than "returned unclaimed." There was other conflicting evidence which could lead to different inferences.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge